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NO NET COST TOBACCO PROGRAM ACT OF 1982

EXPLANATION OF H.R. 6590 AND RELATED MATERIALS

PREPARED BY THE

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FOREWORD

On June 24, 1982, the Committee on Agriculture, Nutrition, and Forestry reported to the Senate H.R. 6590, the No Net Cost Tobacco Program Act of 1982, without a written report. No report was filed because of the need to consider the bill as quickly as possible.

This Committee Print is designed to explain the provisions of H.R. 6590, as reported, and to provide other materials that may be useful to persons interested in the bill.

JESSE HELMS,
Chairman.

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Summary of Major Provisions

H.R. 6590, as reported by the Committee on Agriculture, Nutrition, and Forestry, would amend the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938 as they generally relate, respectively, to the price support program for all kinds of quota tobacco and the acreage allotment and quota program for certain kinds of tobacco.

TITLE I—TOBACCO PRICE SUPPORT PROGRAM

No net cost tobacco fund

H.R. 6590, as it affects the tobacco price support program for the 1982 and subsequent crops—

(1) provides for the program to be carried out by the Commodity Credit Corporation (the Corporation) through producer-owned cooperative marketing associations that make price support advances to producers under loan agreements with the Corporation;

(2) requires each association to establish a separate capital account (No Net Cost Tobacco Fund) to consist of contributions made by producers of the kind of quota tobacco handled by the association and, with respect to the association handling Flue-cured tobacco, by those who, for the 1983 and subsequent crops, lease allotments or quotas to other persons. The fund is to be used exclusively to achieve the objective of the bill—the operation of the tobacco price support program at no net cost to the taxpayer, other than administrative costs common to the operation of support programs for all commodities;

(3) requires producers, as a condition of eligibility for price support, to make contributions, with respect to all quota tobacco marketed by them from a farm, to the fund of the association which makes price support advances available to them. For the 1983 and subsequent crops, producers of Burley tobacco, as a condition of price support eligibility, would have to agree to make contributions in each marketing year of any 3-year period in which marketing quotas are in effect;

(4) requires persons who lease Flue-cured tobacco allotments or quotas to other persons for the 1983 and subsequent crops to make contributions, at the same rate as producers, to the fund of the association which handles such tobacco;

(5) provides that the contributions shall be made in amounts determined by the association and approved by the Secretary, and directs that such approval may be given only if the proposed amounts of contributions will result in a fund sufficient to reimburse the Corporation for any losses that may be suffered under its loan agreements with the association;

(6) requires each association to issue capital stock or certificates or qualified per unit retain certificates to persons who contribute to the association's fund;

(7) permits an association to invest moneys in the fund and requires that earnings on investments be included in the fund;

(8) provides that any net gains from the sale of any crop of loan collateral tobacco of an association will be retained by the Corporation for (a) application against any losses it sustains on other crops of the association's loan tobacco, or (b) reducing outstanding balances on any loans made by the Corporation to the association;

(9) permits the Secretary to release to the association for use for other purposes, or in the case of Burley tobacco for distribution to members of the association, any net gains or amounts in the fund which exceed amounts the Secretary determines necessary to achieve the program's "no net cost" objective;

(10) authorizes the Secretary to terminate a loan agreement with, or make no additional funds available to, an association if the association does not comply with the requirements imposed by the bill, in which event the Secretary would make price support available through other means to producers who used the association; and

(11) provides for the disposition of net gains and moneys in the fund of any association which ceases to operate.

Adjustment of price support level of tobacco

H.R. 6590 also—

(1) authorizes the Secretary to reduce the support rate that would otherwise apply to any eligible grade of any kind of tobacco that is in excess supply, so long as the support rates for all eligible grades of a kind of tobacco average out to a level (a) that reflects not less than 65 percent of any increase in the support level for such kind of tobacco otherwise required by law, or (b) if there is no increase in the support level for such kind of tobacco, that is not less than the support level for such kind of tobacco established under existing law; and

(2) with respect only to an eligible grade of Flue-cured tobacco which the Secretary determines would otherwise have an excessive support rate, authorizes the Secretary to designate the grade as "excessively priced". With respect to any grade so designated, the Secretary is directed, with the prior approval of the association and after prior consultation with associations for other major kinds of quota tobacco, to give producers the option of marketing such grade at a special auction. If a producer elects such option, the producer's tobacco of such grade will be ineligible for price support, will not count against the producer's marketing quota, but will be deducted from any undermarketings which the producer may carry forward to use the next year. With respect only to ineligible grades of Flue-cured tobacco, a producer may, with the prior approval of the association, market such grades at the special auction, with the provisions referred to above applying with respect to marketing quotas and undermarketings. For any crop, a producer may not market, at the special auction, a quantity of tobacco in excess of 10 percent of the quota for the farm.

Penalties for marketing certain tobacco

H.R. 6590, as reported by the Committee, for the 1983 and subsequent crops of tobacco, makes the marketing of any kind of tobacco that is not eligible for price support because a producer has not agreed to make contributions to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account subject to the same penalty as for marketing tobacco from a farm in excess of the marketing quota for the farm.

TITLE II—FLUE-CURED TOBACCO ACREAGE ALLOTMENT AND MARKETING QUOTA PROGRAM

Allotment and marketing quota program

H.R. 6590, as it affects the Flue-cured tobacco acreage allotment and marketing quota program—

(1) prohibits fall leasing of allotments or quotas, except in the case of natural disasters, in which event fall leases may be made to owners or operators of farms in the same county or in an adjoining county in the same State;

(2) requires that agreements for the lease of allotments or quotas be exclusively between the lessor and the lessee, or an agent who regularly represents the lessor or lessee in business transactions unrelated to tobacco, and prohibits subleasing;

(3) requires the lessor and lessee of an allotment or quota to certify that applicable requirements have been met and, if a knowingly false statement is made, makes the lessee ineligible for price support and provides for reduction of the lessor's allotment or quota;

(4) limits the total allotment for any farm, after transfer thereto of allotment by lease or sale, to 50 percent of the acreage of tillable cropland on the farm;

(5) defines "tillable cropland" as cleared land that can be planted to crops without unusual preparation;

(6) permits the sale of allotments or quotas, but only to persons who are active tobacco producers within the same county;

(7) defines "active tobacco producer" as a person who shared in the risk of producing tobacco in at least 1 of the 3 preceding years and generally provides that a person shall be considered to have shared in such risk if (a) the person's investment in the production of a crop is not less than 20 percent of the proceeds of the crop, (b) the amount of the return on investment is dependent solely on the sale price of the crop, and (c) none of such return is received before the crop is sold;

(8) requires any person who purchases an allotment or quota and fails to share in the risk of producing tobacco under such allotment or quota, to sell the allotment or quota within 18 months from July 1 of the year the crop is planted;

(9) requires any person who purchases an allotment or quota and disposes of such a quantity of tillable cropland that the acreage allotment exceeds 50 percent of the tillable cropland on the farm to take action to eliminate the excess or it will be forfeited;

(10) requires entities such as governments, public utilities, and educational or religious institutions (but not individuals) that are

not significantly involved in the management or use of land for agricultural purposes, to sell their Flue-cured tobacco allotments or quotas by December 1, 1983, or they will be forfeited;

(11) requires any person (including an entity) to sell by December 1, 1983, or have forfeited any Flue-cured tobacco allotment that exceeds 50 percent of the farm's tillable cropland; and

(12) in 1983, and at 5-year intervals thereafter, requires adjustment of the national average yield goal for Flue-cured tobacco to the past 5 years' moving national average yield, adjustment of Flue-cured farm acreage allotments to the past 5 years' moving county average yield per acre based on actual yields, or if not available, other appropriate data, and adjustment of preliminary farm yields for Flue-cured tobacco farms;

Nonquota tobacco grown in quota areas

H.R. 6590 exempts, from the provision of law requiring that nonquota tobacco of any kind grown in quota areas be subject to quotas, nonquota tobacco produced in a quota area in which the total acreage allotments for quota tobacco are less than 20 acres. Producers of such nonquota tobacco would not be eligible to vote in the first referendum on such nonquota tobacco conducted after enactment of the bill.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY AND OTHER KINDS OF TOBACCO

Marketing assessments for Burley tobacco

H.R. 6590, as it relates to the 1982 and subsequent crops of Burley tobacco—

(1) requires the Secretary, at the request of a Burley marketing association, and authorizes the Secretary, if he determines the capital fund established by an association for Burley tobacco will be inadequate to cover the Corporation's losses under loan agreements with that Burley association, to continue to make price support available through the Burley association and to establish a separate Burley account within the Corporation to consist of marketing assessments paid by producers of Burley tobacco. The Burley account would supplant the capital account established by a Burley association under title I of the bill and would be used exclusively to ensure that the Corporation suffers no loss in carrying out its loan agreements with the Burley association;

(2) if a Burley account is established, requires producers of Burley tobacco, as a condition of eligibility for price support, to pay to the Corporation, with respect to all Burley tobacco marketed by them marketing assessments for deposit in the Burley account;

(3) provides that the marketing assessments shall be determined by the Secretary, and adjusted from time to time, in consultation with a Burley association. The assessments are to be in an amount sufficient to maintain a Burley account adequate to reimburse the Corporation for any losses that may be suffered under its loan agreements with the Burley association;

(4) provides for collection of the assessments from the person who acquires the Burley tobacco or from a warehouseman or agent, if marketed through a warehouse or other agent;

(5) authorizes the Secretary to suspend the payment and collection of marketing assessments if the amount in the Burley account, and net gains from the sale of Burley loan collateral tobacco, exceed the amounts necessary to achieve the no net cost purposes of the bill;

(6) provides for the disposition of net gains and moneys in the Burley account established for any Burley association that ceases to operate; and

(7) provides that net gains from the sale of any crop of loan collateral tobacco of a Burley association will be handled the same as if the association had established a capital account.

Mandatory sale of Burley tobacco quotas

H.R. 6590, as it affects the Burley tobacco marketing quota program, requires entities such as governments, public utilities, and educational or religious institutions (but not individuals) which are not significantly involved in the management or use of land for agricultural purposes, to sell their Burley tobacco marketing quotas to an active Burley tobacco producer by December 1, 1983, or forfeited them.

Poundage quotas for dark air-cured and fire-cured tobaccos

H.R. 6590 would provide for 1983, and in subsequent years as the Secretary determines there may be sufficient interest, but not more frequently than every 3 years, that producers of dark air-cured tobacco (types 35 and 36) and fire-cured tobacco (types 22 and 23), would be given the opportunity in a referendum to choose whether they favor or oppose establishment of farm marketing quotas on a poundage basis (instead of an acreage allotment basis). If more than 50 percent of those voting in the referendum favor a poundage control program, marketing quotas would be established on a poundage basis for the next 3 marketing years. Acreage would be converted to pounds on the basis of individual farm yields for the 4 highest years during 1978–1982, or the most recent 4-year period. No farm would be permitted to have an average yield in excess of 3,000 pounds for converting acreage allotments to poundage quotas. Other technical changes are made to effect these changes.

Modification of leasing of poundage quotas

H.R. 6590 increases from 15,000 to 30,000 pounds the maximum amount of Burley tobacco poundage quota that may be leased and transferred to any farm.

PURPOSE AND NEED FOR LEGISLATION

Tobacco program operation

The tobacco program is comprised of two interrelated parts, price support loans and marketing restrictions. Price support for tobacco is mandatory under the Agricultural Act of 1949. That Act authorizes the Secretary of Agriculture to prescribe, as a condition for price support eligibility, compliance by producers with certain marketing restrictions, including marketing quotas, which are authorized under the Agricultural Adjustment Act of 1938.

The Agricultural Adjustment Act of 1938 provides the Secretary with authority to regulate the production of tobacco through acreage allotments and marketing quotas. Marketing quotas specifically define the pounds of tobacco that may be sold from the qualifying farm without penalty during a specific marketing year. For Flue-cured and Burley tobacco, the farm marketing quota is established in pounds. For other kinds of tobacco, the farm marketing quota is the actual production of tobacco on the acreage planted within the farm acreage allotment.

Marketing quotas are voted on by growers of each eligible kind of tobacco every three years. If quotas are approved by two-thirds of the producers voting in a national referendum, quotas become mandatory for all producers of that kind of tobacco wherever it is grown. The amount of the national marketing quota for each kind of eligible tobacco is announced annually.

In the most recent referendum, 98 percent of the Flue-cured tobacco producers and 99 percent of the Burley tobacco producers voted to approve marketing quotas for these kinds of tobacco for the 1980–82 crop years.

Penalties are imposed for marketings above the farm marketing quota (110 percent of the quota for Flue-cured and Burley tobacco). The current rate of penalty for any kind of tobacco is 75 percent of the average market price for the previous year. Marketings in excess of the Flue-cured and Burley quota are deducted from the quota allowed the following year.

Eligibility for allotments and/or quotas is determined by (1) either the existence of a production base traced to the 1930's or (2) the subsequent issuance of allotments or quotas by the Secretary. In the case of Flue-cured tobacco, these allotments and quotas are assigned to a particular farm and may not be sold separately from the land. However, an owner of a farm having an allotment and quota may by lease, transfer the farm's quota to another farm within the same county. The owner may also share or cash rent land and quota to a producer; allowing that producer to grow the tobacco on the owner's farm.

The Secretary's determination of the national quota for tobacco is a projection of the production needed to meet domestic and export demand and to provide for a reasonable amount of carryover stocks. The national quota plays a specific role in determining acreage allotments and marketing quotas for individual farms, as each tobacco farm, based on its historical production, is given a pro rata share of the national quota.

Price support under the Agricultural Act of 1949 assures producers of tobacco a minimum price for their tobacco. Funds to carry out the tobacco price support program are made available through the Commodity Credit Corporation (the Corporation) a corporate agency of the Federal Government within the Department of Agriculture, as is also the case for other commodity programs. Personnel are provided by the Agricultural Stabilization and Conservation Service (ASCS) through the Kansas City ASCS Management Field Office, State and county offices, and the national office in Washington, D.C., which oversees all program operations.

Currently, there are 9 kinds of tobacco for which price support is available. Flue-cured and Burley tobacco account for 63 and 29 percent, respectively—or a total of 92 percent—of all the tobacco produced in the United States and Puerto Rico, and account for 78 and 19 percent, respectively, of all tobacco price support loans made from 1974 through 1980. These and most other kinds of tobacco are marketed through auction warehouses located throughout the tobacco producing regions.

The tobacco program has never operated under a system of direct payments or loans to individual farmers, unlike other commodities which participate in the Government-operated price support programs. In the case of tobacco, price support is made available to producers through 13 producer-owned and controlled cooperative marketing associations. As marketing agents for the producers, the associations enter into price support loan agreements annually with the Corporation. These agreements specify terms and conditions for making price support available to producers.

Producers who sell through auction markets deliver their tobacco to auction warehouses for sale. There the tobacco is weighed, displayed for sale on the auction warehouse floor, and graded by a Government inspector. Each lot is offered for sale to the highest bidder. If the high bid does not equal the price support rate for that grade, the producer may consign the tobacco to the association or may market the tobacco at a later date. For each pound of tobacco consigned to the association, the producer receives a price support advance, less a deduction to cover association overhead expenses.

Producer associations may deduct 1 cent per pound from the advance made to the producer to apply against administrative overhead expenses since the associations handle all aspects of the loan operation, including making advances to producers and handling, processing, and storing all the tobacco taken under loan. In addition, the responsibility for the sale of tobacco taken under loan is with the producer associations, with the prices proposed by the associations and approved by the Corporation.

Each association arranges for the tobacco consigned to it by producers to be redried, packed, and stored. This tobacco serves as collateral for the price support loans made by the Corporation directly to the producer associations to cover the amounts advanced to producers and other price support related expenses of the associations. Loans mature on demand and are nonrecourse.

Tobacco collateral from each crop year pool is sold by the association over a period of years. Partial redemption of collateral is not permitted. As loan collateral is sold, the sales proceeds are remitted to the Corporation. When the entire crop year pool has been sold, if the sales proceeds exceed loan principal, interest, and charges, an overplus or net gain exists. Any net gain is returned to the association for distribution to its producer members unless other disposition is approved by the Corporation. If the proceeds from the sale of a crop year pool are less than the principal, interest, and charges, the Corporation writes off the balance.

Congressional policy on tobacco program

Section 1109 of the Agriculture and Food Act of 1981 (Public Law 97-98) expresses the intent of Congress that the tobacco price support and production adjustment program be administered in such a manner as to result in no net cost to the taxpayers other than such adminstrative expenses as are incidental to the implementation of any commodity program. That section also directed the Secretary of Agriculture to promulgate by January 1982 such regulations and policies to accomplish this objective as are within the Secretary's existing authority and to recommend to Congress by January 1982 any legislative changes the Secretary believes are necessary to achieve a no net cost tobacco program.

The Secretary submitted a report in January 1982 setting forth certain actions the Secretary could take administratively to significantly reduce, but not completely eliminate, the cost to taxpayers of operating the tobacco program. In addition, the Secretary recommended supplemental legislation that would (1) establish a producer marketing fee to be collected from producers marketing tobacco to be used to cover potential program losses, and (2) authorize the Secretary to adjust the price support level for the various kinds of tobacco.

H.R. 6590 to achieve no net cost program

H.R. 6590, as reported by the Committee on Agriculture, Nutrition, and Forestry, amends the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938, to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in "no net cost" to the American taxpayer, except for administrative expenses incidental to the operation of any commodity program, to limit increases in the support price for tobacco, and to make certain other necessary structural changes in the program in order to strengthen the operation of the program. The bill would thus achieve the desired objective of a "no net cost" program. The changes proposed by the Committee to these Acts are substantial and will contribute significantly to the successful operation of the program.

The primary cost of the tobacco program, excluding administrative costs, is the loss that occurs when sales proceeds from a crop of loan tobacco are insufficient to fully repay the price support loan made to the association. Since 1933, the Corporation has loaned about $5 billion to associations. For crop year pools already sold, $57 million in principal was not repaid. Of this loss, $35 million occurred 20 years ago when the 1955 and 1956 crops of off-type seed variety Flue-cured tobacco were sold, and $5.4 million of the loss is attributable to the destruction by fire of a warehouse containing Government stocks. Unpaid interest owed the Corporation amounted to about $152.8 million, with about $120 million of this occurring before 1965.

During the most recent 10-calendar year period (1971–1980), losses of principal were about $568,000. Interest losses during the same period were about $35 million. At the end of calendar year 1981, outstanding loan principal on uncommitted stocks totaled $541 million.

If H.R. 6590 is enacted, tobacco will be the only commodity participating in the Government's price support programs to be self-supporting with the exception of administrative expenses. Tobacco already has the best overall loss record of all the major commodities over the life of the Government's price support programs. Only about .02 percent of the total price support losses for all programs can be attributed to losses in the tobacco program, with the Department of Agriculture currently expecting a 98.8 percent return on all dollars invested in the tobacco program.

Outstanding loan stocks have again been building up, particularly loan stocks of Flue-cured tobacco. At the present time, there is virtually no Burley tobacco under Government loan due to the worldwide Burley shortage.

The amount of Flue-cured tobacco loan stocks is attributed largely to the declining share of the world market captured by United States Flue-cured producers in recent years. In 1970, the United States had a 46 percent share of the world Flue-cured tobacco trade—368 million pounds out of a total of 797 million pounds. In 1980, the U.S. share represented only 29 percent of the world market—specifically 391 million of a total of 1,326 million pounds. Foreign grown Flue-cured tobacco now represents 12 percent of all Flue-cured tobacco used by domestic manufacturers.

Prior to April 1981, the Corporation charged interest rates in its price support programs that were less than the Corporation paid on its Treasury borrowings. However, in April 1981, the Corporation began charging interest rates comparable to those the Treasury charges it on its borrowings. Therefore, loans to associations are now made at the current cost of the Corporation's borrowings and another potential loss area has been eliminated from the tobacco program and other commodity programs.

The movement of the tobacco program to a "no net cost" approach is calculated to remove the .02 percent loss which can be attributed to the program.

Actions taken in H.R. 6590—particularly the provision allowing the Secretary greater flexibility with respect to setting price support levels—will make United States tobacco more competitive with foreign tobacco. However, there are still major barriers to deal with if domestic tobacco is to be made more competitive. Existing loopholes in customs regulations permit the entrance of competitive foreign leaf, which sells at a lower price than domestic leaf. Also, some foreign governments currently support the production of their agricultural products in a manner that is not consistent with the U.S. philosophy regarding open trade in agriculture. Nevertheless, net exports of tobacco contributed over $2 billion toward a positive balance of trade in 1981, and continue to be a vital part of United States trade.

Producer fund for operating the tobacco price support program at no net cost

H.R. 6590 addresses the goal expressed in the Agriculture and Food Act of 1981—the achievement of a no net cost tobacco program to the American taxpayer. This is accomplished through producer contributions and assessments to a fund or account to be used to reimburse the Corporation for any net losses it may suffer under its loan agreements with producer associations in carrying out the tobacco price support program.

Under current law, there is no provision for requiring that losses suffered by the Corporation will ever be recovered. Loans are nonrecourse. Beginning with the 1982 crop, loan repayments will be applied to both principal and interest. For the 1966 through 1981 crops, loan principal was repaid first, with interest being paid with remaining funds. If proceeds from the sale of loan tobacco are inadequate to repay the loan, the Corporation bears the loss.

The bill would establish a capital account in each producer association to be known as the "No Net Cost Tobacco Fund". The fund would ensure that all price support loans, including interest and principal will be paid back in full. Beginning with the 1982 crop, the Secretary will require each producer of any kind of quota tobacco, as a condition for price support eligibility, to contribute to the fund for all tobacco marketed either through trade channels or by pledging the tobacco to an association for a price support advance. Beginning in 1983, allotment holders who lease Flue-cured allotments or quotas to others will also be required to contribute to the fund. While the rate of contribution will be established by the associations, the Secretary will approve the rate only if the Secretary finds that it will result in adequate resources to achieve the bill's "no net cost" objective. And, in addition, any net gains from the sale of loan tobacco will be retained by the Corporation for application against any losses it may incur on loan tobacco.

At the request of an association that carries out the price support program for Burley tobacco, the Secretary would establish a special account in the Corporation and require producers who market Burley tobacco to pay assessments to this account to cover potential Corporation losses. If established, the Burley account would be in lieu of any fund established by a Burley association. The Secretary could also establish the account upon determining that the fund established by a Burley association will be inadequate to cover the Corporation's losses under loan agreements with that associaton. Because very little Burley tobacco is currently going under loan, many Burley producers are concerned that the capital account established by the Burley associations may not receive funds sufficient to provide an adequate reserve against potential Corporation losses. The option given the Secretary to establish a Burley account in the Corporation is in response to this concern.

For the 1983 and subsequent crops of tobacco, H.R. 6590 makes the marketing of any kind of tobacco, that is not eligibile for price support because a producer has not agreed to make contributions or payments to the capital account of a producer association or to the Burley account in the Corporation, subject to the same penalty as for marketing tobacco from a farm in excess of the marketing quota for the farm. This will further ensure that the associations' funds or the Burley account will be sufficient to cover any losses the Corporation may suffer under the tobacco price support program.

Adjustment of price support level

Under section 106 of the Agricultural Act of 1949, the Secretary sets the price support level for tobacco based upon a formula set forth in that section. The formula for determining the price support level adjusts the 1959 support level by a 3-year average of the index of prices paid by farmers, including wage rates, interest, and taxes (parity index). The formula does not give the Secretary any discretion in adjusting the overall support levels for tobacco. The bill gives the Secretary added flexibility in setting support levels.

The bill permits the Secretary to adjust the support levels on different grades according to market conditions, so long as these levels average out to a level for any kind of tobacco that reflects not less than 65 percent of any increase in the level otherwise required by law. Thus, the Secretary could reduce by up to 35 percent any increase in the support level. On the other hand, if the support price for any crop decreases from the previous year, producers would have to absorb the full reduction.

This change will not only make U.S. tobacco more competitive with foreign tobacco, but will result in less tobacco going into loan stocks, thus reducing the Corporation's outlays and potential losses.

Special auction of "exessively priced" tobacco

The bill authorizes the Secretary, with respect to grades of eligible Flue-cured tobacco which the Secretary determines would have a support level that is excessive in light of market conditions, to furnish producers an option to market such tobacco at a special auction. The tobacco of producers who take advantage of the option would be ineligible for price support and, thus, would be marketed at the auction at whatever price the tobacco might bring. Further, ineligible grades of Flue-cured tobacco could also be marketed at the special auction. Any tobacco marketed at such auction would not be counted against the producer's marketing quota but would be deducted from any undermarketings which might otherwise be carried forward by the producer for use in the subsequent year. No producer could market at the special auction a quantity of tobacco in excess of 10 percent of the quota for the farm.

Implementation of the special auction approach for either overpriced eligible grades or for ineligible grades of tobacco would be subject to approval of the association that makes price support available to producers of Flue-cured tobacco. This provision gives the association special protection against possible competition with its own stocks of loan tobacco by low-grade or undesirable qualities of leaf. Thus, the provision not only protects existing association stocks of loan tobacco, but it also provides protection against a situation under which the marketing of low-grade tobacco at special auction could cause closely related grades to come under price support and accumulate in association inventories.

These provisions of the bill would make it possible for certain low quality domestic tobacco to compete in the marketplace with foreign leaf of comparable quality which is being imported in significant quantities. Under present law, if a producer's entire quota is taken up by higher quality tobacco, the producer may have no avenue but to throw away low-grade or ineligible leaf. Under the bill, such tobacco not only could be marketed to the benefit of growers, but could be made available at a price that would permit it to supplant imports of similar quality tobacco.

Leasing of Flue-cured tobacco allotments and quotas

The bill makes several changes in the law regarding leasing of Flue-cured tobacco allotments and quotas. All of these changes are designed to reduce leasing costs and thereby reduce the cost of producing tobacco.

A major change provided by the bill is the elimination of fall leasing, except in the case of natural disasters. The practice of fall leasing of Flue-cured allotments and quotas has been the subject of much criticism because of the opportunity for speculation it furnishes and the effect so-called "middlemen" have in the process of leasing. These factors have contributed significantly to the increase in the cost of production and their elimination will reduce those costs.

The bill also addresses the problem of "middlemen" who are involved in spring leasing. As reported, the bill requires that agreements for the leasing of Flue-cured tobacco allotments or quotas be exclusively between the lessor and lessee, or an agent who regularly represents the lessor and the lessee in business transactions unrelated to tobacco. The bill also requires the lessor and the lessee of a Flue-cured tobacco allotment or quota to certify that applicable requirements have been met and enforces this, if there is a knowing false statement, by making the lessee ineligible for price support and reducing the lessor's allotment or quota. Further, the bill limits the total Flue-cured allotment for any farm, after transfer to that farm of allotment by either lease or sale, to 50 percent of the acreage of tillable cropland on the farm. Subleasing of allotment or quota is prohibited. All of these provisions are designed to eliminate speculation in the leasing of Flue-cured tobacco allotments and quotas, reduce production costs, and make it more desirable for a person to sell an allotment or quota such person does not intend to farm.

Sale of tobacco allotments and quotas

Several provisions of the bill address a major criticism levied against the concept of the tobacco allotment and are designed to place the allotments back on the farm of active tobacco growers. The bill specifically permits the sale of Flue-cured tobacco allotments or quotas. However, such allotments or quotas may be sold only to persons who are active tobacco producers within the same county.

Further, any person having a Flue-cured tobacco allotment that exceeds 50 percent of the tillable cropland on the person's farm must sell or forfeit the excess allotment. Sufficient tillable cropland is defined in the bill as cleared land capable of cultivation without unusual preparation. No Flue-cured allotment may exceed 50 percent of such tillable acreage. A person having an allotment that exceeds 50 percent of the farm's tillable cropland has 3 alternatives—acquire more land; sell the excess allotment to an active producer; or, upon failure to do either, forfeit the excess allotment for reallocation within the county.

Under the bill, corporations, public utilities, government bodies, and other entities will be prohibited from owning either Flue-cured allotments or quotas or Burley allotments or quotas, unless they are significantly involved in the management or use of land for agricultural purposes. Such entities will be forced to sell their allotments or quotas to active tobacco producers by December 1983 or forfeit them.

These provisions of the bill will encourage the reallocation of tobacco allotments and quotas back to those individuals who are actually engaged in farming. For the younger farmer, the provisions will provide a heretofore unavailable opportunity to participate in the farming of tobacco. The requirements of the bill are continuing. While an active Flue-cured tobacco farmer may purchase a Flue-cured allotment or quota, once such a purchase is made, the farmer either must grow it, share in the risk of growing it, sell it to an active tobacco producer, or forfeit it to be reallocated to active tobacco producers in the same county.

Particular concern has been expressed that new growers who have not previously produced tobacco have an opportunity to acquire allotments through purchase. As previously stated, the bill provides that allotments or quotas may be sold only to persons who are active tobacco producers. The intention of this limitation is to preclude the purchase of allotments or quota by persons whose purpose is to speculate in the holding or leasing of quotas without a demonstrated intention of actually producing tobacco.

Persons without any prior record of producing tobacco or sharing in the risk of producing tobacco may qualify to purchase allotments and quotas by sharing in the risk of production for 1 year before purchase or by obtaining an allotment through the new grower provisions of current law and producing tobacco on that allotment for 1 year before purchase.

Periodic adjustment of Flue-cured tobacco yields

The bill provides that in 1983, and at 5-year intervals thereafter, the Secretary of Agriculture is to adjust (1) the national average yield goal for Flue-cured tobacco to the past 5 years' moving national average yield, (2) Flue-cured farm acreage allotments to the past 5 years' moving county average yield per acre based upon actual yields or, if not available, other appropriate data, and (3) preliminary farm yields for Flue-cured tobacco farms.

This provision recognizes that farmers are capable of producing more Flue-cured tobacco on a given acreage than they have in the past. The provision will update the acreage-poundage ratio and bring it in line with current yields.

Because of advances in agricultural research and technology, producers of Flue-cured tobacco are able to obtain larger yields on an acre of tobacco. Therefore, maintaining a constant allotment may result in growers producing on that acreage a quantity of tobacco that exceeds their marketing quotas. The bill will provide for periodic updating of yields while at the same time maintaining the same relative farm poundage quotas on farms between counties and States.

Nonquota tobacco grown in quota areas

The Food and Agriculture Act of 1981 contained a provision which with some exceptions, made any nonquota tobacco grown in a quota area subject to marketing quotas. In the State of Pennsylvania there are allotments totaling less than 20 acres for a kind of quota tobacco. As a result, any nonquota tobacco, including Maryland (type 32) tobacco, grown in Pennsylvania is subject to the quotas applicable to the quota kind of tobacco. H.R. 6590 would add to the exemptions now appearing in the statute an additional exemption for nonquota tobacco produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than 20 acres. The result of the amendment would be that Pennsylvania would no longer be considered for purposes of this provision a quota area so long as that State has less than 20 acres of acreage allotments for quota tobacco. Therefore, growers of Maryland (type 32) tobacco in Pennsylvania could continue to produce such tobacco in the State free from penalty as they have done in the past.

Poundage quotas for dark air-cured tobacco and fire-cured tobacco

The bill establishes a procedure under which producers of dark air-cured tobacco and fire-cured tobacco would be given the opportunity in a referendum to choose whether they favor or oppose establishment of farm marketing quotas for such kinds of tobacco on a poundage basis instead of an acreage or acreage-poundage basis. If more than 50 percent of the producers voting in the referendum favor a poundage control program, marketing quotas would be established on a poundage basis for the next 3 marketing years. Acreage would be converted to pounds on the basis of individual farm yields for the 4 highest years during 1978–1982, or the most recent 4-year period. No farm would be permitted to have an average yield in excess of 3,000 pounds for converting acreage allotments to poundage quotas. The bill also provides a procedure whereby in subsequent years if the Secretary determines there is sufficient interest, producers of dark air-cured tobacco and fire-cured tobacco could choose whether to establish marketing quotas on a poundage basis.

Due to fluctuations in both the supply and price of dark air-cured tobacco and fire-cured tobacco that have been experienced in recent years, growers of these kinds of tobacco have expressed an interest in exploring the possibility of going to a poundage control system. Such a system could provide a more dependable supply of these tobaccos along with more stable prices. The bill provides the Secretary with authority to conduct a referendum to determine if growers do indeed wish to change from an acreage allotment system to a poundage control program in the case of dark air-cured tobacco and fire-cured tobacco.

The University of Kentucky, the Kentucky Farm Bureau, and other farm organizations have explored and discussed this possibility with the growers and have assisted in developing this provision and are supportive of this option.

COMMITTEE CONSIDERATION

A. HEARINGS

The Committee on Agriculture, Nutrition, and Forestry held hearings on tobacco legislation in Raleigh, North Carolina on February 12, 1982, and in Lexington, Kentucky on March 15, 1982. The hearing in Raleigh was a joint hearing with the Subcommittee on Tobacco and Peanuts of the House Committe on Agriculture. Three additional meetings with tobacco producers were held by Senator Huddleston in Bowling Green, Kentucky on February 22, Shelbyville, Kentucky on March 8, and Henderson, Kentucky on March 12.

At the Raleigh hearing nearly 40 witnesses testified, including 27 farmers. The hearings attracted an estimated 2,000 people that included farmers, tobacco industry representatives, and other interested persons.

The Honorable James B. Hunt, Jr., the Governor of North Carolina, gave a series of recommendations for fine-tuning the tobacco program, including support for a provision to allow the Secretary of Agriculture to adjust the price support level for low-demand tobacco. Governor Hunt stressed that it is important that farmers retain control of the tobacco program and allotments not be allowed to move too far from the land.

Testifying for the Department of Agriculture, Hoke Leggett, Associate Administrator of the Agricultural Stabilization and Conservation Service, recommended that the Committee authorize a system for collecting a fee or contribution from each producer of tobacco to be used to cover possible future program losses, and that the Secretary of Agriculture be given authority to adjust price support levels for various kinds and grades of tobacco.

Jim Graham, Commissioner of the North Carolina Department of Agriculture, testified in strong support of amending the tobacco price support program in such a way as to guarantee its health and future life. Mr. Graham cautioned that the problems of the program are not simple to work out, and he emphasized that each of the alternatives developed during the hearing process must be evaluated carefully.

Bryan Patrick, the South Carolina Commissioner of Agriculture, supported proposals (1) to use net gains from the sale of crop pools beginning with the 1975 crop to offset losses that may be sustained by CCC in other tobacco crop years and (2) to establish a grower assessment program to ensure the operation of the Flue-cured tobacco price support program on a no loss basis to CCC with the responsibility for determining the amount of the assessment resting with the board of directors of the producer-owned association, subject to approval by the Secretary of Agriculture. An optional proposal Mr. Patrick discussed was to adjust the current rate of escalation of the price support formula.

Richard Jenks, a farmer and president of the Wake County, North Carolina, Farm Bureau, proposed a farmer-owned cooperative with an assessment program and authority for the cooperative to borrow from private sources in order to carry out the price support program. Mr. Jenks also made proposals for keeping supply in line with demand, elimination of fall leasing, sale of allotments, and adjustment of individual poundage and acreage ratios every 5 years.

The entire board of directors of the Flue-cured Tobacco Cooperative Stabilization Corporation appeared with the General Manager of the Corporation, Fred Bond. The Corporation recommended a grower assessment and authority to reduce the escalation in the price support formula. Mr. Bond also stressed the need for any changes to be adopted quickly so that they might apply to the 1982 tobacco season.

John Sledge, President of the North Carolina Farm Bureau, presented the recommendations of his organization and endorsed the following proposals:

(1) Authorize the Secretary, with the advice of a producer advisory committee, to adjust the price support loan rate to provide not less than 65 percent of the normal increase for a 3-year period when stocks are excessive.

(2) Establish a grower controlled assessment.

(3) Authorize sale of tobacco allotments within the same county to active tobacco producers with the total acreage allotment not being allowed to exceed 50 percent of the tillable cropland.

(4) Allow lease and transfer but require that the allotment be planted on the farm of origin at least 1 out of every 3 years.

(5) Permit direct sales by the Flue-cured Tobacco Stabilization Corporation.

(6) Permit leasing of allotments only during the period from January 1 to March 1 of each year.

(7) Adjust individual poundage and acreage ratios at least every 5 years.

(8) Support Burley tobacco loose-leaf sales with USDA grade and price supports for the total quota.

These proposals were generally endorsed by the South Carolina, Georgia, and Virginia Farm Bureaus. With regard to a farmer-financed support program, the Georgia Farm Bureau proposed a grower controlled assessment beginning in 1982 of a minimum of 1-cent per pound to accumulate funds for underwriting future losses on the sale of tobacco.

The North Carolina State Grange generally endorsed recommendations relating to price supports and grower assessments similar to those already described. However, the State Grange recommended that the lease and transfer program be continued under the present law and that such activity be limited to the period from January 1 to April 15 each year.

Ron Perry of Wendell, North Carolina, and Terry Howes of Selma, North Carolina, stressed the problems faced by young tobacco growers and the barriers presently facing them in tobacco production. Mr. Howes proposed forfeiture of allotments where poundage has been leased off the farm for 3 consecutive years and reapportionment to active tobacco farmers, a prohibition on inheritance of tobacco allotments and quotas by a nonproducing heir, elimination of the lease and transfer system, and a prohibition on the sale of allotments.

Lionel S. Edwards, managing director of the Bright Belt Warehouse Association, testified that the three problems facing tobacco farmers are the number of absentee farmers, the high cost of leasing quotas, and the rapidly escalating price support in relation to the world price of tobacco.

The Warehouse Association generally endorsed recommendations presented by the farm groups. The Warehouse Association, however, recommended that the price support formula in present law be amended to specify that for Flue-cured tobacco not less than 50 percent nor more than 65 percent of the increase provided by the present formula be added to the support price beginning in 1982.

The Tobacco Growers Association of North Carolina, which was formed in December of 1981 to meet the concerns of many small growers in North Carolina, testified on the need to move allotments back into the hands of growing farmers. While in general agreement with many of the recommendations of other farm groups, the Association also recommended requiring sale of allotments by owners with insufficient cropland, charging all nonquota tobacco produced in Flue-cured counties against Flue-cured quotas, eliminating fall leasing except where 80 percent of the effective quota for the farm is planted, and eliminating lease and transfer across county lines.

The Virginia American Agricultural Movement also presented proposals that closely paralleled the proposals of the Tobacco Growers Association of North Carolina.

The Leaf Tobacco Exporters Association, Inc., was represented by their Executive Vice President, Dr. Hugh Kiger. Dr. Kiger stressed the difficulty his organization has in dealing with the price differential of American leaf versus lower priced foreign leaf. The Association recommended that price support levels for the 1982 crop be frozen at the 1981 level, that thereafter increases in tobacco price supports be tied to the actual cost of production of such tobacco, and that the Secretary be given further authority to adjust support levels for individual grades of tobacco which he determines to be in excess supply.

With respect to quotas, the Association recommended that quotas should be in the hands of actual growers in the traditional producing areas and that authority should be provided for the sale of quotas within counties to growers with sufficient tillable acreage.

John S. Campbell, an international tobacco consultant, described the changing foreign market for U.S. tobacco and indicated that country of origin is no longer the primary concern of international tobacco buyers but that the relationship of price to quality is now paramount.

Kirk Wayne, president of Tobacco Associates, Inc., which represents U.S. Flue-cured tobacco growers in promoting, developing, and expanding world markets for U.S. Flue-cured tobacco, discussed the export market situation and indicated that a stabilizing, responsive tobacco program that provides a dependable, adequate supply of the types of tobacco in demand will be necessary for U.S. growers to compete effectively in today's limited and highly competitive world market.

Richard Whitaker, president of the Randolph County Tobacco Club, recommended removal of all allotments and redistribution within the same counties to active tobacco growers based on 80 percent of their average production for the last 3 years.

The Committee heard from a number of individual farmers and allotment holders. While many allotment owners expressed their concern about loss of their property rights in tobacco allotments, even though not grown by them, the largest number of individual witnesses were farmers who stressed concern with increasing cash rent prices and with abuses in the fall leasing and transfer program.

On March 15, 1982, the Committee held a hearing in Lexington, Kentucky and heard from 30 witnesses.

The Honorable Martha Layne Collins, Lt. Governor of Kentucky, encouraged the Committee to support the tobacco program and indicated how important it is to the State of Kentucky.

Don Graves, an aide to Senator Ford, expressed the Senator's support for the tobacco program and any changes necessary for the program to survive.

Alben W. Barkley, Kentucky Commissioner of Agriculture, cautioned that the tobacco program should be dealt with very carefully, although if changes are needed in the program they should be made.

D. Milton Shuffett, professor of agricultural economics at the University of Kentucky, provided some background on the tobacco industry in Kentucky and spelled out a number of alternatives and questions that should be considered in connection with any changes in the tobacco program.

Ray Mackey, representing the Kentucky Farm Bureau, testified that that organization generally supported the Administration's no-cost proposals with some exceptions. With regard to increasing the amount permitted to be deducted from the price support advance, Mr. Mackey recommended a limit of $2 per hundredweight. The Farm Bureau supported retention of net gains to offset losses in subsequent years, collection of a reasonable fee from producers marketing tobacco to be used to offset losses in subsequent years, adjustment of price supports on grades that have accumulated in excessive supply with no adjustment to be less than the price support for the previous year plus 65 percent of what the increase would be under the present formula. The Farm Bureau also recommended that authority be provided to the Secretary to conduct a referendum on permitting 4 dark tobacco types to shift from an acreage to a poundage program.

Joe McDaniel, president of the Burley Tobacco Growers Cooperative Association, traced the history of the association and its role in stabilizing the price of tobacco in Burley areas. Mr. McDaniel expressed his support for the no-cost program and the establishment of a check-off fund. He also recommended that the no-cost fund should be started with 1982 sales.

Morrison Nelson, representing the Burley Leaf Tobacco Dealers Association, recommended freezing the price support level for the 1982 crop at the 1981 level, increasing price supports in subsequent years based on changes in the actual cost of production, and giving the Secretary authority to adjust support levels for individual grades of tobacco which he determines are in excess supply. Mr. Nelson also recommended certain changes in the allotment system and removal of the 15,000 pound leasing limit on Burley tobacco.

William Balden, president of the Burley Farmers Advisory Council, generally supported the recommendations of the farm organizations with regard to establishing a no-cost tobacco program. Mr. Balden also recommended legislation to permit dark air-cured tobacco and fire-cured tobacco producers to vote by referendum on instituting a poundage program for these types of tobacco.

Tom Harris, executive director of the Kentucky Council on Agriculture, advised that the Committee use caution in authorizing any adjustments in price support levels, especially for Burley tobacco. Mr. Harris also advocated that the Burley growers cooperative association should be given tax exempt status for the purpose of receiving, investing, managing, and disbursing any fees collected from growers to ensure a no-cost program.

Frank B. Snodgrass, vice president and managing director of the Burley and Dark Leaf Tobacco Export Association, testified that no losses are expected to be incurred on stocks of 1975–1981 crops of Burley tobacco. The Association recommended that overhead expenses of the producer associations should be included as administrative expenses in the no-cost proposal, that there be a 1-cent per pound deduction on all producer sales of tobacco with the funds to be held by the associations to ensure a no-cost program, and that dark and cigar tobacco producers be authorized to vote for poundage quotas.

The Burley Auction Warehouse Association, represented by Ben Crain, generally supported the no-cost proposals. Mr. Crain cautioned, however, that if the Secretary is given authority to make downward adjustments in the price support level for tobacco that may be in excess supply, exercise of that authority should be carefully monitored so as not to create a disparity between the price supports for Burley tobacco and those for certain grades of Flue-cured tobacco.

Representatives of the Indiana Farm Bureau, the Tennessee Farm Bureau, and the Ohio Farm Bureau generally supported an assessment to ensure a no-cost program. The Committee also heard from a number of other individual farmer witnesses.

In summary, Burley warehousemen, farmers, and organization leaders generally expressed a concern about drastic changes in the tobacco price support program. They pointed out that there is no surplus tobacco in the Burley Stabilization warehouses and that from their perspective the program is working extremely well.

B. COMMITTEE MARKUP

On June 24, 1982, the Committee on Agriculture, Nutrition, and Forestry met to consider H.R. 6590, as passed by the House of Representatives on June 21.

After general discussion on the bill, Senator Huddleston offered an amendment to provide that, for the 1983 and subsequent crops of tobacco, the marketing of any kind of tobacco that is not eligible for price support because a producer has not agreed to make contributions to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account would be subject to the same penalty as that for marketing tobacco from a farm in excess of the marketing quota for the farm. Senator Huddleston explained that the effect of the amendment is to make contributions to the no-cost fund or account mandatory beginning in 1983 for all those who sell quota tobacco. The amendment was adopted by voice vote.

Chairman Helms then offered several minor and technical amendments which were also adopted by voice vote. These amendments—

(1) modified the provision in the bill relating to periodic adjustment of the national average yield goal for Flue-cured tobacco to make it clear that the adjustments in yields and farm acreage allotments would be made in such a manner that the relationship of farm poundage quotas on farms between counties and States would be maintained and quota would not be taken from one farm or county and given to another;

(2) provided that the initial proclamation of marketing quotas for dark air-cured tobacco and fire-cured tobacco would be for 3 instead of 2 years;

(3) continued the existing law with respect to the amount of dark air-cured tobacco and fired-cured tobacco that may be leased to any farm;

(4) modified the provision permitting the lease of Flue-cured tobacco allotment or quota after June 15 in the case of a natural disaster to allow such lease to an owner or operator of a farm in the same county as well as a farm in an adjoining county; and

(5) made other technical changes.

After further discussion, the Committee, by voice vote, ordered H.R. 6590, as amended, reported to the Senate.

SECTION-BY-SECTION ANALYSIS

Short title

Section 1 provides that the bill may be cited as the "No Net Cost Tobacco Program Act of 1982".

Findings

Section 2 makes findings that—

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be established by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

TITLE I—MODIFICATIONS OF TOBACCO PRICE SUPPORT PROGRAM

Producer contributions to no net cost tobacco fund

Section 101, effective for the 1982 and subsequent crops of tobacco, amends the Agricultural Act of 1949 by adding thereto a new section 106A.

Subsection (a) of new section 106A defines certain terms as follows:

(1) the term "association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

(2) the term "Corporation" means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

(3) the term "Fund" means the capital account to be established within each association to be known as the No Net Cost Tobacco Fund;

(4) the term "to market" means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(5) the term "net gains" means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

(6) the term "quota tobacco" means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

Subsection (b) of new section 106A provides that the Secretary of Agriculture (the Secretary) may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

Subsection (c) of new section 106A requires that each association establish a Fund to be comprised of amounts contributed by producer-members.

Subsection (d) of new section 106A directs the Secretary to—

(1) require—

(A) that, (i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley tobacco with respect to the 1983 and subsequent crops) agree, with respect to all of that kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and (ii) as a condition of eligibility for price support for any marketing year of any 3-year period for which marketing quotas are in effect (beginning with the 1983 crop) each producer of Burley tobacco agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such 3-year period, to contribute in each of the marketing years in such period (or, in the case of a new producer or a producer succeeding another producer, any remaining marketing year in the 3-year period), with respect to all Burley quota tobacco marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

(B) that, upon the making of a contribution, (i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution, and (ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer receive from the association a qualified per unit retain certificate having a face amount equal to the amount of the contribution and representing an interest in the association's Fund;

(2) approve the amount of the contributions determined by the association from time to time only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds

which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

(3) for the 1983 and subsequent crops, require that each owner and operator of any farm who leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco contribute to the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease is to be the same amount as the contribution for producers of Flue-cured tobacco of such crop. The association, upon receiving such contribution, is to issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

(4) require that the Fund established by each association be kept and maintained separate from all other accounts of the association and be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the Corporation;

(5) permit an association to invest the moneys in the Fund in such manner as the Secretary may approve, with earnings on such investment to become a part of the Fund;

(6) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subequent crops of tobacco pledged by the association as security for price support loans. Such net gains would be used for the purpose of off-setting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

(7) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains on sales of loan tobacco exceed the amounts necessary for the designated purposes, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

Subsection (e) of new section 106A provides that if any association which has entered into a loan agreement with the Coroporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the above provisions, the regulations issued thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary is directed to make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by the Agricultural Act of 1949 or the Commodity Credit Corporation Charter Act.

Subsection (f) of new section 106A requires that if a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains on sales of loan tobacco are to be applied or disposed of in such manner as the Secretary may approve or prescribe, except that to the extent necessary, they are first to be applied or used for the designated purposes therefor.

Subsection (g) of new section 106A directs the Secretary to issue regulations necessary to carry out the provisions of the section.

Adjustment of price support level of tobacco

Section 102, effective for the 1982 and subsequent crops of tobacco, amends section 106 of the Agricultural Act of 1949 by adding new subsections (d) and (e).

New subsection (d) authorizes the Secretary, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, and after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, to reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco. However, the weighted average of the support rates for all eligible grades of such kind of tobacco must, after such reduction, reflect not less than (1) 65 percent of the increase in the support level for such kind of tobacco which would otherwise be established under law, if the support level therefor is higher than the support level for the preceding crop, or (2) the support level for such kind of tobacco established under law, if the support level therefor is not higher than the support level for the preceding crop.

In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is to take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.

New subsection (e) authorizes the Secretary, if the Secretary determines that, notwithstanding the adjustments in the support price made as provided above, the supply of any eligible grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will have a support rate which will likely be excessive under current market conditions, and after prior approval of the association through which price support for Flue-cured tobacco is made available to producers, and after prior consultation with any other association through which price support for any other major quota kind of tobacco is made available to producers, to designate such grade of tobacco as "excessively priced". If a grade of tobacco is so designated, the Secretary is required to provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade is to be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco are permitted to market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction, notwithstanding any other provision of law, is not to be considered marketed for purposes of marketing or poundage quotas and penalties under the Agricultural Adjustment Act of 1938, except that a quantity of tobacco equal to the quantity marketed at such special auction is to be deducted from any undermarketings for purposes of that Act. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary is to take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco. No producer may market at a special auction a quantity of tobacco of any crop that exceeds 10 percent of the marketing quota for the farm.

Penalties for marketing certain tobacco

Section 103, effective for the 1983 and subsequent crops of tobacco, amends section 314 of the Agricultural Adjustment Act of 1938 to provide that the marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.

TITLE II—MODIFICATION OF FLUE-CURED TOBACCO MARKETING SYSTEM

Lease and sale of Flue-cured tobacco acreage allotments and marketing quotas

Section 201(a) amends section 316(a) of the Agricultural Adjustment Act of 1938. The amendments—

(1) direct the Secretary to permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act to lease such allotment or quota if the Secretary determines that it will not impair the effective operation of the price support and quota programs;

(2) prohibit the filing of any lease of any Flue-cured tobacco allotment or quota assigned to a farm after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

(A) the county in which such farm is located has suffered a loss of not less than 10 percent of the acreage of Flue-cured tobacco planted for harvest in such crop year;

(B) the lessor involved has suffered a loss of not less than 10 percent of the acreage of Flue-cured tobacco planted for harvest in such crop year; and

(C) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

Upon such determination, the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer are not to be effective until a copy of such lease and a written statement concerning the transaction are filed with and determined by the county committee of such county to be in compliance with applicable requirements;

(3) prohibit any agreement or arrangement in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota except—

(A) between the lessor and lessee; or

(B) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco;

and

(4) prohibit any sublease or other transfer of such allotment or quota by such lessee during the period of such lease.

Section 201(b) amends section 316(c) of the Agricultural Adjustment Act of 1938. The amendments—

(1) make technical revisions to accommodate the new authority to sell Flue-cured tobacco allotments and quotas; and

(2) provide that in the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with the county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing, the county committee determines that the lessee knowingly made a false statement in such written statement, then the lessee is to be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if the determination is made after the lessee received such price support, the Secretary, taking into consideration the recommendation of the county committee and the amount of such poundage, is to reduce appropriately the poundage for which the lessee may receive price support with respect to the crop first marketed after the determination is made. If, after notice and an opportunity for a

hearing, the county committee determines that the lessor knowingly made a false statement in such written statement, the Flue-cured allotment or quota next established for the farm of such lessor is to be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions is to be mailed, as soon as practicable, to the lessee or lessor involved. If the lessee or the lessor is dissatisfied with such determination, then the lessee or the lessor may request, within 15 days after notice of the determination is so mailed, a review of the determination by a local review committee.

Section 201(c) of the bill amends section 316(e) of the Agricultural Adjustment Act of 1938. The amendments—

(1) provide that the Flue-cured tobacco acreage allotment for a farm to which an allotment is transferred by lease or sale may not exceed 50 percent of the acreage of tillable cropland on the farm; and

(2) define the term "tillable cropland" to mean cleared land that can be planted to crops without unusual cultivation or other preparation.

Section 201(d) deletes obsolete provisions from section 316 of the Agricultural Adjustment Act of 1938 and adds new subsections (g) and (h) which—

(1) require the Secretary to permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county;

(2) define the term "active Flue-cured tobacco producer" to mean any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than 1 of the 3 years preceding the year involved;

(3) provide that a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop is to be considered to have shared in the risk of producing such crop if, under the terms of such lease, paragraphs (B) and (C) are satisfied with regard to such owner;

(4) require that any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota, sell such allotment or quota before the expiration of the 18-month period beginning on July 1 of the year in which the crop is planted, or such allotment or quota is subject to forfeiture;

(5) require that any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase; and

(B) disposes of an acreage of tillable cropland which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 percent of the tillable cropland owned by such person, must take steps, before July 1 of the year after the year of such disposal, which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceedng 50 percent of the tillable cropland owned by such person. If the person fails to take such steps, then any such excess allotment or quota is subject to forfeiture;

(6) require that if, after notice and an opportunity for a hearing, the Secretary, through the appropriate county committee, determines that any person knowingly failed to comply with the above requirements, such person shall forfeit the allotment or quota. Any allotment or quota so forfeited is to be reallocated by such county committee for use by active Flue-cured tobacco producers in the county involved; and

(7) provide that court review of any such determination shall be available in the same manner as is provided in the Agricultural Adjustment Act of 1938 for court review of determinations of local review committees.

Mandatory sale of certain Flue-cured tobacco acreage allotments and marketing quotas held before enactment

Section 202 adds to the Agricultural Adjustment Act of 1938 a new section 316A that—

(1) requires that any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of the bill—

(A) owns a farm for which a Flue-cured acreage allotment or marketing quota is established; and

(B) is not significantly involved in the management or use of land for agricultural purposes;

must sell such allotment or quota not later than December 1, 1983, or forfeit such allotment or quota;

(2) requires that any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which the total acreage allotment for the production of Flue-cured tobacco exceeds 50 percent of such farm's tillable cropland shall forfeit any acreage allotment or marketing quota representing the excess;

(3) provide that if, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with the above requirements, the allotment or quota involved shall be forfeited and shall be reallocated to active Flue-cured tobacco producers in the county involved; and

(4) provides that court review of any such determination shall be available in the same manner as is provided for court review of determinations of local review committees.

Periodic adjustment of national average yield goals for Flue-cured acreage-poundage quotas

Section 203 of the bill amends section 317(a) of the Agricultural Adjustment Act of 1938 to require that in 1983, and at 5-year intervals thereafter—

(1) the national average yield goal for Flue-cured tobacco be adjusted by the Secretary to the past 5 years' moving national average yield;

(2) farm acreage allotments for Flue-cured tobacco for farms in each county be adjusted by the Secretary to reflect the increases or decreases in the past 5 years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary deems appropriate; and

(3) preliminary farm yields for Flue-cured tobacco farms in each county be adjusted by the Secretary by the reciprocal of the factor computed in section 317(a)(4) of the Agricultural Adjustment Act of 1938 to adjust farm acreage allotments to reflect increases or decreases in the past 5 years' moving county average yields.

Exemption of certain nonquota tobacco from quota restrictions

Section 204 of the bill amends section 320 of the Agricultural Adjustment Act of 1938, which subjects, unless exempted, nonquota tobacco of any kind which is grown in an area where marketing quotas are in effect for any kind of tobacco to such quotas. The amendment adds, to tobacco now exempt from this provision, nonquota tobacco grown in a quota area where the total acreage allotments for quota tobacco established for farms is less than 20 acres. In this regard, the Conference Report on the Agriculture and Food Act of 1981, which also amended section 320 of the 1938 Act, stated that the conferees intend that the Secretary construe the term "area" to mean an entire State. Section 204 also provides that the producers of such nonquota tobacco are not eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary after the effective date of this provision.

Conforming amendments

Section 205 makes certain conforming amendments to section 317(f) of the Agricultural Adjustment Act of 1938 and section 703 of the Food and Agriculture Act of 1965.

Effective date

Section 206 provides that title II of the bill is to take effect on the date of enactment, but that amendments made by the title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into before the date of enactment.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY TOBACCO AND OTHER KINDS OF TOBACCO

Marketing assessments to no net cost Burley tobacco account

Section 301, effective for the 1982 and subsequent crops of tobacco, amends the Agricultural Act of 1949 by adding thereto a new section 106B.

Subsection (a) of new section 106B defines certain terms as follows:

(1) the term "Burley association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of Burley tobacco;

(2) the term "Burley Account" means an account established by and in the Corporation for a Burley association to be known as the "No Net Cost Burley Tobacco Account";

(3) the term "to market" means to dispose of Burley tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the Burley tobacco to a Burley association for a price support advance;

(4) the term "net gains" means the amount by which total proceeds obtained from the sale by a Burley association of a crop of Burley tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the Burley association on such crop, plus interest and charges;

(5) the term "Burley tobacco" means Burley tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

(6) the term "area", when used in connection with a Burley association, means the general geographical area in which farms of the producer-members of such Burley association are located, as determined by the Secretary; and

(7) the term "Corporation" shall have the meaning given to it in section 106A(a)(2) of the Agricultural Act of 1949.

Subsection (b) of new section 106B provides that the Secretary of Agriculture (Secretary) is required to, upon the request of any Burley association, and may if the Secretary determines, after consultation with such Burley association, that the accumulation of the No Net Cost Tobacco Fund for such Burley association under section 106A of the Agricultural Act of 1949 is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such Burley association—

(1) continue to make price support available to Burley producers through such Burley association in accordance with loan agreements entered into between the Corporation and such Burley association; and

(2) establish and maintain in accordance with new section 106B a No Net Cost Burley Tobacco Account for such Burley association in lieu of the No Net Cost Tobacco Fund established within such Burley association under section 106A.

Subsection (c) of new section 106B provides that—

(1) any Burley Account established for a Burley association is to be established within the Corporation and comprised of amounts paid by producers, and

(2) upon the establishment of a Burley Account for a Burley association, any amount in the No Net Cost Tobacco Fund established within such Burley association under section 106A of the Agricultural Act of 1949 is to be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes prescribed in such section.

Subsection (d) of new section 106B directs the Secretary to—

(1) if a Burley Account is established for a Burley association, require (in lieu of any contribution under section 106A(d)(1) of the Agricultural Act of 1949) that each producer of Burley tobacco whose farm is within such Burley association's area, as a condition of eligibility for price support, agree, with respect to all Burley tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such Burley association's Burley Account, marketing assessments;

(2) determine and adjust from time to time, in consultation with such Burley association, the amount of the marketing assessment which is to equal an amount which, when collected, will result in an accumulation of a Burley Account for such Burley association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such Burley association, based on reasonable estimates of the amounts which the Corporation will lend to such Burley association under such agreements and the proceeds which will be realized from the sales of Burley tobacco which are pledged to the Corporation by such Burley association as security for loans; and

(3) collect marketing assessments from the person who acquired the Burley tobacco involved from such producer. In such event an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such Burley tobacco is marketed by sale. If Burley tobacco is marketed by a producer through a warehouseman or other agent, the assessment is to be collected from the warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If Burley tobacco is marketed by a producer directly to any person outside the United States, the assessment is to be collected from the producer.

Subsection (e) of new section 106B requires that amounts deposited in a Burley Account established for a Burley association be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such Burley association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the Burley association), after any net gains from the sale of loan collateral tobacco are applied to net losses of the Corporation.

Subsection (f) of the new section 106B directs the Secretary to provide, in any loan agreement between the Corporation and a Burley association for which a Burley Account has been established, that if the Secretary determines that the amount in such Burley Account or the net gains from the sale of loan collateral tobacco exceed the amounts necessary for the purposes of the new section, then the Secretary, in consultation with such Burley association, may suspend the payment and collection of marketing assessments upon terms and conditions established by the Secretary.

Subsection (g) of new section 106B provides that, with respect to any Burley association for which a Burley Account is established, if a loan agreement between the Corporation and such Burley association is terminated, if such Burley association is dissolved or merges with another Burley association, or if such Burley Account terminates by operation of law, then amounts in such Burley Account and the net gains from the sale of loan collateral tobacco are to be applied to or disposed of in such manner as the Secretary may prescribe, except that, to the extent necessary, they are first to be applied to or used for the purposes prescribed in the new section.

Subsection (h) of new section 106B provides that the provisions of section 106A(d)(5) of the Agricultural Act of 1949 relating to net gains are to apply to any loan agreement between a Burley association and the Corporation entered into upon or after the establishment of a Burley Account for such Burley association.

Subsection (i) of new section 106B directs the Secretary to issue regulations necessary to carry out provisions of the section.

Mandatory sale of certain Burley tobacco acreage allotments and marketing quotas held before enactment

Section 302 adds to the Agricultural Adjustment Act of 1938 a new section 316B that—

(1) requires that any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of the bill—

(A) owns a farm for which a Burley tobacco acreage allotment or marketing quota is established; and

(B) is not significantly involved in the management or use of land for agricultural purposes;

must sell, not later than December 1, 1983, such allotment or quota to an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or forfeit such allotment or quota;

(2) provides that, if, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with the above requirements, the allotment or quota involved shall be forfeited and shall be reallocated to other active Burley tobacco producers in the county involved;

(3) provides that court review of any such determination shall be available in the same manner as is provided for court review of determinations of local review committees.

Poundage quotas for dark air-cured tobacco and for fire-cured tobacco; modification of leasing of poundage quotas for Burley tobacco

Section 303(a) amends section 301(b)(15) of the Agricultural Adjustment Act of 1938 relating to the definition of tobacco to provide that for purposes of section 319 of that Act, types 22 and 23, fired-cured tobacco shall be treated as one "kind of tobacco".

Section 303(b) amends section 319(b) of the Agricultural Adjustment Act of 1938 relating to poundage quotas for Burley tobacco to make the provisions of section 319(b) apply only to Burley tobacco.

Section 303(c) amends section 319 of the Agricultural Adjustment Act of 1938 to add a new subsection (b) that—

(1) directs the Secretary, not later than February 1, 1983, to proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23, for the 3 marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quotas for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983;

(2) requires the Secretary, within 30 days following such proclamation, to conduct a referendum of the farmers engaged in the production of the 1982 crop of dark air-cured tobacco and fire-cured tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco for the 3 marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the 2 marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in the referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas will be in effect for such kind of tobacco for the 3 marketing years beginning October 1, 1983, and marketing quotas on an acreage basis will cease to be in effect for such kind of tobacco for the 2 marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in the referendum, then quotas on an acreage basis will be in effect for such kind of tobacco for the 2 marketing years beginning October 1, 1983;

(3) requires the Secretary, if marketing quotas on an acreage basis are in effect for dark air-cured tobacco or fire-cured tobacco, if, for a period of not less than 3 marketing years, a referendum has not been held under section 319 to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, at the time of the next announcement of the amount of the national marketing quota, to announce national marketing quotas for the next 3 succeeding marketing years under section 319. Within 30 days of such proclamation, the Secretary is to conduct a referendum of

farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco for the next 3 succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis, then quotas on that basis shall be in effect for the next 3 succeeding marketing years and the marketing quotas on an acreage or acreage poundage basis shall cease to be in effect at the beginning of such 3-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed; and

(4) directs the Secretary to determine and announce, not later than February 1 preceding the second and third marketing years of any 3-year period for which marketing quotas on a poundage basis are in effect for dark air-cured tobacco or fire-cured tobacco, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco, then the Secretary shall, not later than February 1 of the last of 3 consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next 3 succeeding marketing years as provided in section 319. The Secretary is to conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within 30 days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next 3 succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply except that the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in section 319 of the Act.

Section 303(d) amends sections 319(c) of the Agricultural Adjustment Act of 1938 relating to the method for determining the national marketing quota for Burley tobacco to make the provisions of that section apply to dark air-cured tobacco and fire-cured tobacco under a poundage program, except that the provision limiting downward adjustments of the national marketing quota to no more than 5 percent of estimated utilization and exports would not apply.

Section 303(e) amends section 319(d) of the Agricultural Adjustment Act of 1938 relating to the method for determining farm yields for Burley tobacco farms to make the provisions of that section apply to dark air-cured tobacco and fire-cured tobacco under a poundage program. In the case of dark air-cured tobacco and fire-cured tobacco, when a national marketing quota is first proclaimed under the section, the Secretary, through local committees, is to determine a farm yield for each farm for which a dark air-cured or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982. The yield would be determined by averaging the yield per acre for the 4 highest of the 5 consecutive years beginning with the 1978 crop year or by following the other methods set forth in the section, except that the farm yield established for any farm could not exceed 3,000 pounds per acre. Also when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under the section, farm yields with respect to those kinds of tobacco are to be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.

Section 303(f) amends section 319(e) of the Agricultural Adjustment Act of 1938 relating to the establishment of preliminary farm marketing quotas, farm marketing quotas for the first and subsequent years of a poundage program, and farm marketing quotas for new farms in the case of Burley tobacco to make the provisions of that section generally apply to dark air-cured tobacco and fire-cured tobacco under a poundage program. Under the bill, a preliminary farm marketing quota is to be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under subsection (d) of section 319 by the farm acreage allotment (prior to any required reduction) established for such farm for the marketing year beginning October 1, 1982.

Section 303(g) amends sections 319(f) of the Agricultural Adjustment Act of 1938 relating to reduction of farm marketing quotas for filing false reports and certain other activity in the case of Burley tobacco to make the provisions apply to dark air-cured tobacco and fire-cured tobacco under a poundage program.

Section 303(h) amends sections 319(g) of the Agricultural Adjustment Act of 1938 relating to lease and transfer of farm marketing quotas for Burley tobacco when a poundage program is in effect to make the provisions apply to dark air-cured tobacco and fire-cured tobacco, except that the limitation on the amount of quota that may be leased and transferred would not apply. The bill would also increase from 15,000 pounds to 30,000 pounds the amount of quota that may be leased and transferred in the case of Burley tobacco.

Section 303(i) amends section 319(i) of the Agricultural Adjustment Act of 1938 relating to penalties for the marketing of excess tobacco when a poundage program is in effect to make the provisions of that section apply to dark air-cured tobacco and fire-cured tobacco under a poundage program.

Section 303(j) amends the section heading for section 319 of the Agricultural Adjustment Act of 1938.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

By letter of June 30, 1982, to Chairman Helms, the Congressional Budget Office provided the following cost estimate for H.R. 6590, as reported by the Committee on Agriculture, Nutrition, and Forestry:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 30, 1982.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6590, the No Net Cost Tobacco Program Act of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE JUNE 30, 1982

1. Bill number H.R. 6590.
2. Bill title: The No Net Cost Tobacco Program Act of 1982.
3. Bill status: As reported by the Senate Committee on Agriculture, Nutrition, and Forestry, June 24, 1982.
4. Bill purpose: The bill modifies the current tobacco price support program to establish capital funds to be maintained within producer-owned cooperative marketing associations, and requires producer contributions to defray federal tobacco loan losses. Beginning with the 1983 tobacco crop, it requires contributions to the fund by those who lease certain tobacco quotas or allotments to others. The bill allows the Commodity Credit Corporation (CCC) to retain net gains from the sale of crop loan collateral tobacco to offset losses on other sales. The bill authorizes the Secretary of Agriculture to reduce increases in the support rate to 65 percent of the increases mandated by law. The bill also places certain restrictions on the sale or leasing of tobacco quotas and allotments.
5. Cost estimate: Estimated savings from this bill relative to the CBO baseline projections are shown in the following table.

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Estimated authorization level			−8	−8	−8
Estimated outlays	−5	−12	−11	−6	−10

The savings from this bill fall within budget function 350.

6. Basis of estimate: The fees paid into the capital funds established by the bill are assumed sufficient to offset the losses from the sale of collateral tobacco, which are projected to be about $8 million annually. Payments from the capital funds would replace the appropriation made to reimburse CCC for net realized losses

two years after they are incurred. Therefore, the $8 million reduction in annual losses reduces the necessary appropriation by $8 million in fiscal year 1985 and thereafter, and would reduce outlays by about $8 million per year beginning in 1984.

Tobacco program outlays are the result of commodity price support loan activity in each fiscal year. This bill would not alter the volume of tobacco under loan, but the dollar volume of the loan activity would be reduced in proportion to the reduction in the rate of increase in the price support rate. It is assumed the increase in the support loan would be reduced to the 65 percent minimum level and that this would decrease support loans by an estimated 3 percent, 6 percent, 7 percent, 8 percent and 9 percent in crop years 1982 through 1986, respectively. Lower tobacco loans are projected to decrease the dollar volume of new loans in fiscal years 1983 through 1987, with corresponding reductions in repayments of those loans.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 18, 1982, the Congressional Budget Office prepared a cost estimate of H.R. 6590, as ordered reported by the House Committee on Agriculture, June 15, 1982. This House bill differs only slightly from the Senate-reported version, and the estimated budget impact of the two versions is the same.

9. Estimate prepared by: Howard Conley.

10. Estimate approved by:

C. G. NUCKOLS
(For James. L. Blum, Assistant Director
for Budget Analysis).

CHANGES IN EXISTING LAW

Changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AGRICULTURAL ACT OF 1949

* * * * * * *

TITLE I—BASIC AGRICULTURAL COMMODITIES

SEC. 101. The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsection (a), (b), and (c) as follows:

(a) For tobacco (except as otherwise provided herein), corn, and wheat, if the supply percentage as of the beginning of the marketing year is:

	The level of support shall be not less than the following percentage of the parity price:
Not more than 102	90
More than 102 but not more than 104	89
More than 104 but not more than 106	88
More than 106 but not more than 108	87
More than 108 but not more than 110	86
More than 110 but not more than 112	85
More than 112 but not more than 114	84
More than 114 but not more than 116	83
More than 116 but not more than 118	82
More than 118 but not more than 120	81
More than 120 but not more than 122	80
More than 122 but not more than 124	79
More than 124 but not more than 126	78
More than 126 but not more than 128	77
More than 128 but not more than 130	76
More than 130	75

For rice of the 1959 and 1960 crops, the level of support shall be not less than 75 per centum of the parity price. For rice of the 1961 crop the level of support shall be not less than 70 per centum of the parity price. For the 1962 and subsequent crops of rice the level of support shall be not less than 65 per centum of the parity price.

* * * * * * *

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) [Applicable only to 1950 crops.]

(2) [Applicable only to 1951 crops.]

(3) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall

be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) * * *

(5) price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program.

(6) * * *

(7) Where a State is designated under section 335(e) of the Agricultural Adjustment Act of 1938, as amended, as outside the commercial wheat-producing area for any crop of wheat, the level of price support for wheat to cooperators in such State for such crop of wheat shall be 75 per centum of the level of price support to cooperators in the commercial wheat-producing area.

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PRICE SUPPORT FOR 1960 AND SUBSEQUENT YEARS (TOBACCO)

SEC. 106. Notwithstanding any of the provisions of section 101 of this Act: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices paid by farmers, including wage rates, interest, and taxes, as defined in section 301(a)(1)(C) of the Agricultural Adjustment Act of 1938, as amended, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959. (c) If acreage poundage or poundage farm marketing quotas are in effect under section 317 or 319 of the Agricultural Adjustment Act of 1938, as amended, (1) price support shall not be made available on tobacco marketed in excess of 110 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considerd tobacco of the then current crop. **(d) Notwithstanding the provisions of sec-*

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* New subsections (d) and (e) are effective for the 1982 and subsequent crops of tobacco.

tion 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: Provided, That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher then the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco. (e) If the Secretary determines that, notwithstanding the adjustments in the support price made under subsection (d), the support rate of any eligible grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive under current market conditions, the Secretary, after prior approval of the association through which price support for Flue-cured tobacco is made available to producers and after prior consultation with any other association through which price support for any other major quota kind of tobacco is made available to producers, may designate such grade of tobacco as "excessively priced". If a grade of tobacco is so designated, the Secretary shall provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade shall be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco may also market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction shall, notwithstanding any other provision of law, not be considered marketed for purposes of marketing or poundage quotas and penalties under subtitle B, part I, of the Agricultural Adjustment Act of 1938: Provided, That a quantity of tobacco equal to the quantity marketed at such special auction shall be deducted from any undermarketings for purposes of such subtitle. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco. For purposes of this subsection, no producer may market at the *special auction a quantity of tobacco of any crop in excess of 10 per centum of the farm marketing quota.*

PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

[*]*Sec. 106A. (a) As used in the section—*

(1) the term "association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

(2) the term "Corporation" means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

(3) the term "Fund" means the capital account to be established within each association, which account shall be known as the "No Net Cost Tobacco Fund";

(4) the term "to market" means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

(5) the term "net gains" means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

(6) the term "quota tobacco" means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

(b) The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

(c) Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

(d) The Secretary shall—

(1) require—

(A) that—

(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

(ii) as a condition of eligibility for price support for any marketing year of any three-year period for which

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[*] Section 106A is effective for the 1982 and subsequent crops of tobacco.

marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period (or, in the case of a producer of Burley quota tobacco on a new farm or a producer of Burley quota tobacco succeeding another producer on a farm, before the beginning of the marketing year in which such new producer or such successor producer will first market Burley quota tobacco from the farm involved), to contribute in each of the marketing years in such three-year period (or, in the case of such new producer or such successor producer, any remaining marketing year in such three-year period), with respect to all Burley quota tobacco marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

(B) that, upon making a contribution under subparagraph (A)—

(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

(2) effective for the 1983 and subsequent crops, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The

amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the corporation under paragraph 5;

(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall

make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.

MARKETING ASSESSMENTS TO NO NET COST BURLEY TOBACCO ACCOUNT

* *SEC. 106B. (a) As used in this section—*

(1) the term "Burley association" means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of Burley tobacco;

(2) the term "Burley Account" means an account established by and in the Corporation for a Burley association, which account shall be known as the "No Net Cost Burley Tobacco Account";

(3) the term "to market" means to dispose of Burley tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the Burley tobacco to a Burley association for a price support advance;

(4) the term "net gains" means the amount by which total proceeds obtained from the sale by a Burley association of a crop of Burley tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the Burley association on such crop, plus interest and charges;

(5) the term "Burley tobacco" means Burley tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

(6) the term "area", when used in connection with a Burley association, means the general geographical area in which farms of the producer-members of such Burley association are located, as determined by the Secretary; and

(7) the term "Corporation" shall have the meaning given to it in section 106A(a)(2).

(b) Notwithstanding section 106A, the Secretary shall, upon the request of any Burley association, and may, if the Secretary determines, after consultation with such Burley association, that the accumulation of the No Net Cost Tobacco Fund for such Burley association under section 106A is and is likely to remain, inadequate to

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* Section 106B is effective for the 1982 and subsequent crops of tobacco.

reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such Burley association—

(1) continue to make price support available to Burley producers through such Burley association in accordance with loan agreements entered into between the Corporation and such Burley association; and

(2) establish and maintain in accordance with this section a No Net Cost Burley Tobacco Account for such Burley association in lieu of the No Net Cost Tobacco Fund established within such Burley association under section 106A.

(c)(1) Any Burley Account established for a Burley association under subsection (b)(2) shall be established within the Corporation and shall be comprised of amounts paid by producers under subsection (d).

(2) Upon the establishment of a Burley Account for a Burley association, any amount in the No Net Cost Tobacco Fund established within such Burley association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

(d)(1) If a Burley Account is established for a Burley association under subsection (b)(2), then the Secretary shall require (in lieu of any requirement under section 106A(d)(1)) that each producer of Burley tobacco whose farm is within such Burley association's area shall, as a condition of eligibility for price support, agree, with respect to all Burley tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such Burley association's Burley Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

(2) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such Burley association, the amount of a marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of Burley tobacco marketed by a producer from a farm within such Burley association's area. Such amount shall be equal to an amount which, when collected, will result in an accumulation of a Burley Account for such Burley association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such Burley association based on reasonable estimates of the amounts which the Corporation will lend to such Burley association under such agreements and the proceeds which will be realized from the sales of Burley tobacco which are pledged to the Corporation by such Burley association as security for loans.

(3)(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the Burley tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such Burley tobacco is marketed by sale.

(B) If Burley tobacco is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount

equal to such assessment from the price paid to the producer. If Burley tobacco is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.

(e) Amounts deposited in a Burley Account established for a Burley association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such Burley association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the Burley association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h).

(f) The Secretary shall provide, in any loan agreement between the Corporation and a Burley association for which a Burley Account has been established under subsection (b)(2), that if the Secretary determines that the amount in such Burley Account or the net gains referred to in subsection (h) exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such Burley association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

(g) With respect to any Burley association for which a Burley Account is established under subsection (b)(2), if a loan agreement between the Corporation and such Burley association is terminated, if such Burley association is dissolved or merges with another Burley association, or if such Burley Account terminates by operation of law, then amounts in such Burley Account and the net gains referred to in subsection (h) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

(h) The provisions of section 106A(d)(5) relating to net gains shall apply to any loan agreement between a Burley association and the Corporation entered into upon or after the establishment of a Burley Account for such Burley association under subsection (b)(2).

(i) The Secretary shall issue regulations necessary to carry out provisions of this section.

AGRICULTURAL ADJUSTMENT ACT OF 1938

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TITLE III—LOAN, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

SUBTITLE A—DEFINITIONS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

DEFINITIONS

SEC. 301. (a) GENERAL DEFINITIONS.—* * *

(b) DEFINITIONS APPLICABLE TO ONE OR MORE COMMODITIES.—For the purposes of this title—

(1) * * *

(15) "Tobacco" means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regul*atory Announcement Numbered 118 of the Bureau of* Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;
Fire-cured tobacco, comprising types 21, 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;
Cigar-filler tobacco, comprising type 41.

The provisions of this title shall apply to each of such kinds of tobacco severally: *Provided,* That any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of this Act if the Secretary finds there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: *Provided further,* That with respect to the 1958 and subsequent crops, type 21 (Virginia) fire-cured tobacco shall be treated as a "kind of tobacco" for the purposes of all of the provisions of this title, except that for the purposes of section 312(c) of this title, types 21, 22, and 23, fire-cured tobacco shall be treated as one "kind of tobacco"[.]: *And provided further, That for purposes of section 319 of this title, types 22 and 23, fired-cured tobacco shall be treated as one "kind of tobacco".*

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SUBTITLE B—MARKETING QUOTAS

Part I—Marketing Quotas—Tobacco

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PENALTIES

SEC. 314. (a) [The marketing of any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.] *The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding market-*

*ing year.** Such penalty shall be paid by the person who acquired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided,* That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which said marketing year begins.

(b) The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

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*Effective beginning with the 1983 crop of tobacco.

[LEASE AND TRANSFER OF ACREAGE ALLOTMENTS]

LEASE OR SALE OF ACREAGE ALLOTMENTS

SEC. 316. (a)*(1)* Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support program, *shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and* may permit the owner or operator of any farm for which a tobacco acreage allotment (other than a Burley, *Flue-cured,* dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this Act, to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment or quota of the same kind.

(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county or in an adjoining county within the same State for use in such county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such county to be in compliance with the provisions of this section.

(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

(i) between the lessor and lessee; or

(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease.

(b) Any lease may be made for such terms of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) The lease and transfer *or sale and transfer* of any allotment shall not be effective until a copy of [such lease] *the lease or sale agreement, as the case may be,* is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with provisions of this section. [Any lease of Flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of two thousand pounds filed on or after June 15 in any year shall not be effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 80 per centum of the farm acreage allotment in effect for such year.] *In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing, such county committee determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing, such county committee determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions shall be mailed, as soon as practicable, to the lessee or the lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessess or such lessor may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.* If the normal yield established by the county committee for the farm to which the allotment is transferred by *lease or sale* does not exceed the normal yield establish by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the [lease and] transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

(d) The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e)*(1)* The total acreage allotted to any farm after the transfer by lease *or sale* of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm *or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm: Provided,* that in the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and tranferred to any farm.

(2) For purposes of this section, the term "tillable cropland" means cleared land that can be planted to crops without unusual cultivation or other preparation.

(f) The secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

[(g) Nothwithstanding any provision of this section, when as a result of flood, hail, wind, tornado, or other natural disaster the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Atkinson, Bacon, Berrien, Clinch, Cook, Lanier, Lowndes, or Ware Counties, Georgia, or Clarendon, Lee, Sumter, or Williamsburg Counties, South Carolina, which has suffered a loss of 30 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1973 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.

[(h) Nothwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted, and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Craven, Carteret and Jones Counties, North Carolina, which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1974 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.

[(i) Nothwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties in South Carolina or Georgia has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage), and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within a designated county which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage) of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or other counties within the same State, for use in such counties for the year 1976 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of the subsection.]

(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county. For purposes of this section, the term "active Flue-cured tobacco producer" means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved.

(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs

(B) and (C) of this paragraph are satisfied with regard to such owner.

(h)(1) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(2) Any person who—

(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 316A. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this section—

(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which ~~the~~ total acreage allotted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm's tillable cropland, as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c).

(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.

MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 316B. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this section—

(1) owns a farm for which a Burley tobacco acreage allotment or marketing quota is established under this Act; and

(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell, not later than December 1, 1983, such allotment or quota to an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such allotment or quota under the procedure specified in subsection (b).

(b)(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated by such county committee to other active Burley tobacco producers, as defined by the Secretary, for use in such county.

(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.

ACREAGE—POUNDAGE QUOTAS

SEC. 317. (a) For purposes of this section—

(1) "National marketing quota" for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(2) "National average yield goal" for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant. *Notwithstanding the preceding sentence, in 1983, and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield.*

(3) "National acreage allotment" means the acreage determined by dividing the national marketing quota by the national average yield goal.

(4) "Farm acreage allotment" for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction under subsection (f), so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under susbsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for Flue-cured tobacco for 1965, the 1965 farm allotment determined under section 313 shall be adjusted in lieu of the acreage allotment for the immediately preceding year. *Notwithstanding the preceding provisions of this subsection, in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem appropriate.*

(5) The "community average yield" means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisons of section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, which is determined by averaging

the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community average yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6)(A) "Preliminary farm yield" for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the year in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community. *Notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.*

(B) "Preliminary farm yield" for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the years 1960 to 1964, inclusive, may be used, as determined by the Secretary. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(7) "Farm yield" means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) and dividing the sum of the products by the national acreage allotment.

(8) "Farm marketing quota" for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided*, That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in access of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year.

(b) Within thirty days after the enactment of this section the Secretary pursuant to the provisions of subsection (a) of this section shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing qoutas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period.

(c) Whenever during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his descretion, determines with respect to that kind of tobacco that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time the next announcement of the amount of the national marketing quota under section 312(b) of this Act determine and announce the amount of the national quota for that kind of tobacco under this section of the Act and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however,* That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66⅔ per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on an acreage-poundage basis are not approved by more than 66⅔ per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 312(a).

(d) If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) the Secretary shall, not later than December 1 of any marketing year with respect to Flue-cured tobacco, and February 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 312(c) of this Act. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c). The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 1 with respect to Flue-cured tobacco and the February 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations.

(e) No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 1 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years. The part of the reserve held for apportionment to new farms shall be alloted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms, and shall not exceed the community average yield.

(f) Only the provisions of the last two sentences of subsection (g) of section 313 of this Act shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an average allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 378 of this Act, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316) be leased *and sold* under the terms and conditions contained in section 316 of this Act, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributable to the farm to which transferred. Transfers of acreage allotments for 1965 under section 316 on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section.

(g) When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 of the Act shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with paragraph (a)(8): *Provided, however,* If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N_2 tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

(2) When marketing quotas established under this section are in effect the provision with respect to penalties contained in the third sentence of subsection 314(a) shall be revised to read: "If any pro-

ducer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer."

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words "normal production" where they appear in the fourth sentence of subsection (a) of such section shall be read "farm yield" and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a)(8) shall apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of subsection 314(a) shall not be applicable.

(h) Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f). The additional acreage and quotas required under this subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acrege poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under preceding provisions of this subsection;

(B) clause (1) of the Act of July 12, 1952, shall for such purpose read as follows: "(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis"; and

(C) the proviso of that Act shall for such purpose read as follows: "*Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis."

(i) If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b), the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm orgnizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco.

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[FARM POUNDAGE QUOTAS FOR BURLEY TOBACCO]

FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO

SEC. 319. (a) Notwithstanding any other provision of law, the Secretary shall, within thirty days following the enactment of this section, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 312 of the Act shall apply: *Provided*, That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

[(b)] The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect *for burley tobacco* under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis *for burley tobacco* under this section, the Secretary shall, not later than February 1 of the last year of three consecutive marketing years for which marketing quotas are in effect *for burley tobacco* under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Within thirty days following such proclamation the

Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for [such kind of] *burley tobacco* for the first marketing year of such three-year period. Thereafter, the provisions of section 312 of the Act shall apply: *Provided,* That the national marketing quota and farm marketing quotas shall be determined *for burley tobacco* as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum.

(b) Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as "fire-cured tobacco") for the three marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years begining on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of to-

bacco to determine whether they favor the extablishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage or acreage poundage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this Act.

The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than February 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 312 of the Act shall apply: Provided, That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.

(c) The national marketing quota determined under this section for [burley tobacco] *any kind of tobacco for which poundage quotas may be established* for any marketing year shall be the amount *of such kind of tobacco* produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during each marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. [Any] *With respect to burley tobacco, any* such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect *for a kind of tobacco* under this section, the Secretary in his discretion may establish a reserve *with respect to such kind of tobacco* (hereinafter referred to as the "national reserve") from the national marketing quota *for such kind of tobacco* in an amount not in excess of 1 [per centum of the] *per centum of such* national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(d) When a national marketing quota is first proclaimed *for a kind of tobacco* under this section, the Secretary shall through local committees determine a farm yield for each farm for which [a burley tobacco acreage allotment] *an acreage allotment for such kind of tobacco* was established for the marketing year beginning October 1, 1970*, in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco.* Such yield shall be determined by averaging the yield per acre for the four highest years of the five consecutive years beginning with the 1966 crop year*, in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco*: *Provided,* That if [burley tobacco] *the kind of tobacco involved* was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that [burley tobacco] *such kind of tobacco* was produced on the farm: *Provided further,* That if no [burley tobacco] *such kind of tobacco* was produced on the farm but the farm was considered as having planted [burley tobacco] *such kind of tobacco* during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which [burley tobacco] *such kind of tobacco* was produced during such five-year period: *And provided further,* That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre [.]*, in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: And provided further, That when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.*

(e) A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the Act) established for such farm for the marketing year beginning October 1, 1970. *A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) es-*

tablished for such farm for the marketing year beginning October 1, 1982. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided,* That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which [burley tobacco marketing quotas] *marketing quotas for the kind of tobacco involved* will be determined for such succeeding marketing year: *Provided,* That such national factor shall not be less than 95 per centum: *Provided further,* That for the marketing years beginning October 1, 1972 and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided,* That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided,* That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past [burley tobacco experience of the farm operator] *experience of the farm operator with respect to the kind of tobacco involved;* the land, labor, and equipment available for the [production of burley tobacco] *production of such kind of tobacco;* crop rotation practices, and the soil and other physical factors affecting the [production of burley tobacco] *production of such kind of tobacco: Provided,* That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further,* That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) When a poundage program is in effect *for any kind of tobacco* under this section, the farm marketing quota next established for any farm shall be reduced by the amount of [burley tobacco] *such kind of tobacco* produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided,* That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) When a poundage program is in effect *for any kind of tobacco* under this section, farm marketing quotas (after adjustments) for [burley tobacco] *such kind of tobacco* may be leased and transferred to other farms in the same county under the terms and conditions contained in section 318 of the Act: *Provided,* That such leases and transfers shall be on a pound for pound basis: *Provided further,* That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further,* That not more than [fifteen thousand pounds] *thirty thousand pounds* may be leased and transferred to any farm under this section *with respect to burley tobacco: And provided further,* That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(h) Effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

(i) When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 of the Act shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentge the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction is subsequent farm marketing quotas in accordance with section 319(e): *Provided,* That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any

grades of [burley tobacco] *the kind of tobacco involved* during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 314(a) shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer."

(3) The provisions contained in the fourth sentence of section 314(a) shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect *with respect to burley tobacco*, the farm marketing quota determined under the provisions of section 319(e) shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of section 319(c) shall apply.

(j) The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section.

NONQUOTA TOBACCO SUBJECT TO QUOTA

SEC. 320. (a) Notwithstanding any other provision of law, effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that area. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of quota tobacco produced in the area having the highest price support under the Agricultural Act of 1949.

(b) Subsection (a) of this section shall not apply to—

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota area on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect;

(2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut and Massachusetts, and cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia and Florida; [and]

(4) tobacco produced in a quota area that is represented to be nonquota tobacco and that is readily and distinguishably differ-

ent from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and indentification of tobacco [.]*; and*

(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 312(c) of this Act, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after the effective date of this paragraph.

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FOOD AND AGRICULTURE ACT OF 1965

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SEC. 703.—Notwithstanding the provisions of subsection 316(c) and subsection 317(f) relating to [lease and] transfer of allotments for years subsequent to 1965, of the Agricultural Adjustment Act of 1938, as amended, whenever acreage poundage quotas are in effect for any kind of tobacco as provided in section 317 of the Act, the [lease and] transfer shall be on a pound for pound basis and the acreage allotment for the [lessee] *transferee* farm shall be increased by an amount determined by dividing the number of pounds [leased] *transferred* by the farm yield for the [lessee] *transferee* farm, and the acreage allotment for the [lessor] *transferor* farm shall be reduced by an amount determined by dividing the number of pounds [leased] *transferred* by the farm yield for the [lessor] *transferor* farm.

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